

HON. ROBERTO V. REYES, DEPUTY EXECUTIVE SECRETARY, HON. RONALDO ZAMORA, ASSISTANT EXECUTIVE SECRETARY HON. JOSE LEIDO, JR., SECRETARY OF NATURAL RESOURCES, AND HON. RAMON N. CAS...

G.R. No. 55463. November 25, 1983

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

This is a Petition for Review on Certiorari of the Decision of the former Court of Appeals in its CA-G.R. No. 06922-SP, affirming the judgment of the then Court of First Instance of Agusan del Sur in Civil Case No. 135, instituted by private respondents Julito Geolina (GEOLINA, for short) and Columba Pol (COLUMBA, for short) against Anita Abad Karaos (ABAD DAUGHTER, for short), Benigno Karaos (KARAOS, for short) and petitioners herein (the LANDS OFFICIALS, for short, inclusive of their subordinate).

The original pleading filed with the Trial Court on October 14, 1975, was a Petition for Certiorari alleging legal error and abuse of discretion on the part of the LANDS OFFICIALS in their final resolution of a conflict between GEOLINA and COLUMBA on one part, and ABAD DAUGHTER and KARAOS on the other part. Their controversy was in regards to the adjudication for private or public sale of a public land lot of 211 sq. m. in San Francisco, Agusan del Sur (the ABAD-POL LOT, for short), which was the subject of conflict between COLUMBIA and ABAD DAUGHTER, and another public land lot of 216 sq. m. located in the same municipality, (the KARAOS-GEOLINA LOT, for short) which was the subject of conflict between GEOLINA and KARAOS. The ABAD DAUGHTER has assumed the role of sole successor-in-interest of her deceased father, Manuel Abad, Sr.

In the Trial Court, no testimonial evidence was adduced. The parties, in the main, merely submitted documentary evidence, on which they were placing reliance and which were admitted by the Court. Ordinarily, documentary evidence cannot be invoked against a party who did not sign the same, or is otherwise estopped to deny its contents.[1] Of course, there are documents, not proven wrong, which by themselves alone can establish facts. A certificate of death, not proven wrong, can establish the fact and date of a person's death.

In the case at bar, the exhibits cannot be indisputable bases for the establishment of controversial facts. For in-stance, Exhibit "I", an Order of the LANDS OFFICIALS, stated:

"In the re-investigation, it was found that both protestants Julito Geolina and Columba Pol are in actual possession and Occupation of the lots in question. The said possession and Occupation was ascertained to have started in 1959

x x x x x x

Respondent's claim to the building and/or structure occupied by protestants Geolina and Columba Pol appears to be untenable. It not in consonance with human nature that such a situation could be tolerated by anyone. If it

is true that protestants were merely allowed to stay in the building allegedly constructed by the respondents on the land in question, respondents could have easily recovered possession of the same by the simple expedient of filing an ejectment case in court. But this, they (respondents) never did, thus making it quite obvious that the structure existing in the premises of the lots in question is really owned by the protestants

In Exhibit "A", the LANDS OFFICIALS found that the ABAD-POL LOT

" has been actually occupied by Columba Pol since 1960 up to the present; that she has constructed on the land a house valued at P8,000.00 and that respondent Manuel Abad, Sr. whose whereabouts is unknown has not occupied or introduced any improvement thereon;"

On the other hand, in the Order Exhibit "J", the LANDS OFFICIALS said:

"x x x It appears, as it has been sufficiently proved by respondents, that as early as 1960 a house was constructed by them on the land in question. This fact is amply established by exhibits 'D, D-1, D-2 and E' of respondent Abad and exhibits 'B, C, C-1 and C-2' of respondent Karaos. Being related by affinity, (Abad is the father-in-law of Benigno Karaos) their house was constructed in such a way that it occupies both the lots applied for by Manuel Abad, Sr., (Lot 3678) and that of Benigno Karaos (Lot 3679). In 1960, respondent Karaos was assigned to Manila and respondent Manuel Abad, Sr., left for Cebu for medical treatment. They entrusted the land in question to Romana Pol, sister of protestant Columba Pol for her to oversee and at the same time, authorized Manuel Abad, Jr., to act as their administrator. Unfortunately, however, the said Romana Pol allowed her sister Columba Pol and Julito Geolina to enter and stay in the premises of the land in question."

What may be deduced from the foregoing are the following assumptions:

- (a) As is admitted that Manuel Abad, Sr. never returned from his trip to Cebu for medical treatment, he probably died in Cebu in 1960.
- (b) KARAOS (married to ABAD DAUGHTER) left San Francisco for Manila in 1960, and he was served with summons in this case in Metro Manila on November 12, 1975. The indication is that, from 1960 to 1975, he had been residing in Metro Manila.
- (c) There is an indication that, besides the ABAD DAUGHTER, Manuel Abad, Sr. had another offspring named Manuel Abad, Jr.
- (d) The claim that Manuel Abad, Jr. was left administrator of the two lots here in question, while Romana Pol was entrusted "to oversee" the property, can be related to the fact that COLUMBA was already in possession of the ABAD-POL LOT which, being "commercial", presupposed that she had a store or other commercial venture therein. It can also be related to the finding of the LANDS OFFICIALS in Exhibit "I" that:

"x x x When respondents left Agusan, they allegedly entrusted the care of the land in question to Manuel Abad, Jr. If this is true, how would it have been possible for protestants to have been able to gain access to and stay in the premises of the land in question without Manuel Abad, Jr. doing anything about it. It is claimed that Manuel Abad, Jr. informed respondent Karaos of the construction being made by Romana Pol, a relative of Columba Pol on the land in question, yet, they appear not to have done anything about it. Apparently, respondents do not wish to make known the fact that they have allowed some other persons to benefit from and use the land in question which is violative of paragraph 4 of their applications"

Besides the documentary evidence, the parties stipulated on facts as follows:

"2. The truth of the allegations in paragraphs C, D, E, F, G, H, I, J, K, L, M, N, O and P of Part III of the petition.

"3. The petitioners have been in the actual occupancy and possession of Lots Nos. 3678 and 3679, San Francisco, Agusan del Sur, since 1960 continuously up to the present, and that petitioners are actually residing in said lots; and

"4. Lots Nos. 3678 and 3679 are commercial lots, located in the poblacion of San Francisco, Agusan del Sur. "

The cited paragraphs in Part III of the original petition were merely a recital of the administrative proceedings before the LANDS OFFICIALS. The mention of the year 1960 is material to the claim of COLUMBA and GEOLINA that they had better rights than ABAD DAUGHTER and KARAOS to purchase the lots. The reference to the residence in the two lots of COLUMBA and GEOLINA, together with the statement that said lots are "commercial", are relevant to the construction of RA 730.[2]

In effect, there are two questions to be resolved in this case. The first issue is the determination of which of the tandem COLUMBA/GEOLINA and the tandem ABAD DAUGHTER/KARAOS is entitled to purchase the two lots here involved. The second issue is to determine whether a lot used for both residential and commercial purposes is within the ambit of RA 730.

The facts of the first issue may be briefly related as follows:

1. (a) In January 1959, Manuel Abad, Sr. filed a miscellaneous sales application for the ABAD-POL LOT. Two months later, his son-in-law KARAOS also filed a miscellaneous sales application for the KARAOS-GEOLINA LOT.

(b) The two lots are fronting the San Francisco public market and can be considered "commercial" properties.

2. According to Exhibit "I", Manuel Abad, Sr. and KARAOS "each have a patented agricultural land and a residential land" within San Francisco, while COLUMBA and GEOLINA "are still landless".

3. (a) In 1959/1960 Manuel Abad, Sr. left for Cebu for medical treatment, while KARAOS also left for Metro Manila where he has remained a resident.

(b) In 1960, COLUMBA was in possession of the ABAD--POL LOT and had constructed a house thereon, while GEOLINA was in possession of the KARAOS-GEOLINA LOT and had built a house thereon.

4. The houses of COLUMBA and GEOLINA are their residences. It can also be presumed that they were conducting stores or other "commercial" ventures in the houses.

5. (a) In June 1969, COLUMBA and GEOLINA filed separate protests against the sales application of Manuel Abad, Sr. and KARAOS.

(b) In September 1969, COLUMBA and GEOLINA filed their own separate miscellaneous sales application for the two lots.

6. (a) On February 19, 1970, the LANDS OFFICIALS issued two Orders which rejected the 1959 applications of Manuel Abad, Sr. and KARAOS, and gave due course to the applications of COLUMBA and GEOLINA.

(b) Later on, the LANDS OFFICIALS sold the ABAD-POL LOT to COLUMBA on private sale pursuant to the provisions of RA 730.

7. In 1972, ABAD DAUGHTER and KARAOS filed two separate protests against the sales application of COLUMBA and GEOLINA. In Exhibit "I", the LANDS OFFICIALS rejected the protests of ABAD DAUGHTER and KARAOS and upheld the proceedings in regards to the applications of COLUMBA and GEOLINA.

8. Subsequently, the LANDS OFFICIALS reversed themselves and rejected the sales applications of COLUMBA and GEOLINA, and gave due course to the sales applications of Abad, Sr. and KARAOS, and ordered the public sales of the lots pursuant to the provisions of RA 730.

9. COLUMBA and GEOLINA then initiated the instant case before the then Court of First Instance of Agusan del Sur.

The Trial Court held that COLUMBA and GEOLINA had better rights than ABAD DAUGHTER and KARAOS to purchase the two lots, and that under RA 730, those lots, used as residences, can be sold at private sale. The LANDS OFFICIALS were ordered to issue a sales patent to COLUMBA, and to proceed with the private sale of the KARAOS-GEOLINA LOT, on the sales application of GEOLINA. On appeal to the Appellate Court, the judgment of the Trial Court was affirmed.

From the decision of the Appellate Court, the ABAD DAUGHTER and KARAOS have not come to this instance. Only the LANDS OFFICIALS have filed the Petition for Review on Certiorari of the Appellate Court's decision. In their Petition and in their Brief, the LANDS OFFICIALS have concentrated on the second issue; that is, they have sustained the proposition that, under RA 730, only residential lands can be sold through private sale. Although they have prayed for reversal of the Decision of the Appellate Tribunal, they have not attempted to show that the Appellate Tribunal had erred in extending preferential rights to purchase to COLUMBA and GEOLINA.

We agree with the conclusions of both Trial and Appellate Courts that COLUMBA and GEOLINA should be preferred as purchasers of the two lots in question. Section 65, as amended, of CA 141 provides that a sales applicant "shall make improve-ments of a permanent character appropriate for the purpose for which the land is purchased, shall commence work thereon within six months from the receipt of the Order of award, and shall complete the construction of said improvements within eighteen months from the date of such award. " Because Manuel Abad, Sr. and KARAOS, after filing their sales applications in 1959, left San Francisco, it cannot be said that they had made and completed improvements of a permanent character "within eighteen months from the date of such award", because, in 1960, the lots were already occupied by COLUMBA and GEOLINA who had already built, or had begun building, their own houses thereon. On the other hand, COLUMBA and GEOLINA, whose sales application had been filed in 1969 and approved in 1970, could be deemed to have complied with the statutory requirements before ABAD DAUGHTER and KARAOS filed their protests in 1972.

It should be easy to conclude that inaction on the part of Manuel Abad, Sr. and KARAOS, from 1960 to 1972, to pursue their sales applications can be viewed as actual abandonment of their rights under those 1959 applications. Section 65 tacitly requires that sales applicants should remain in possession, actual or constructive, from the time applications are submitted to the date of actual purchase. That requirement cannot be said as having been complied with in respect of Manuel Abad, Sr. and KARAOS. Incidentally, it might be pointed out that, in Exhibit "I", the LANDS OFFICIALS had correctly considered in favor of COLUMBA and GEOLINA the fact that both ABAD DAUGHTER and KARAOS "each have a patented agricultural land and a residential land within Pls-67 while protestants (COLUMBA/GEOLINA) are still landless".

It might further be stated now that if the LANDS OFFICIALS had delineated the controversy between COLUMBA/GEOLINA and ABAD DAUGHTER/KARAOS in their petition for review on certiorari, the chances could have been that due course would have been granted only in respect of the second issue.

We also agree with the Appellate Court in regards to the second issue. Section 58 of the Public Land Act provides:

"SEC. 58. Any tract of land of the public domain which, being neither timber nor mineral land, is intended to

be used for residential purposes or for commercial, industrial, or other productive purposes other than agricultural, and is open to disposition or concession, shall be disposed of under the provisions of this chapter and not otherwise."

It will be noted that classification under the section is not based on the nature of the land, which would be impractical, but is based "purposes" of use. The problem which can arise is in respect, as in this case, of land the purpose of which is both residential and commercial.

We refer to other relevant statutes for a derivation of meaning. PD 20 uses the term "dwelling unit". It had been generally conceded that the term is not limited to a unit exclusively used as a residence, but also covers houses used as residences and also for small stores and small "commercial" purposes.

In BP No. 25, it has been expressly provided that a residential unit includes "those used for home industries, retail stores or other business purposes if the owner thereof and his family actually live therein and use it principally for dwelling purposes". Since COLUMBA and GEOLINA have no residences in San Francisco, the lots they have applied for should be considered as being used principally for dwelling purposes although they may have a store or other commercial venture therein which would amount to "commercial" purposes.

In RA 730, the title uses the term for "residential purposes". Section 1 of the statute uses the clause "established his residence on a parcel of public land". Those terms apply to the situation of COLUMBA and GEOLINA. Even if their intention is to acquire the lots both for residence and commercial venture, the principal purpose should be residential. Residence is a requirement of a person with priority to the requirement for a place of business. Hence, we consider that the lots here involved are for "residential purposes" and are actually "established" residences within the meaning of RA 730 and can be sold on private sales. Of course, lots purely for "commercial purposes" will clearly be outside the scope of the statute.

The LANDS OFFICIALS, prior to their change of mind, had previously held in the specific case of COLUMBA that public lots used both for residential and commercial purposes are covered by RA 730 (Exhibits "G" and "H"). The Trial Court, confirmed by the Appellate Court, had made reference to previous instances where the LANDS OFFICIALS had disposed of lots, similar to those applied for by COLUMBA and GEOLINA, under RA 730. Said the Trial Court.

"The petitioners have demonstrated with their Exhibits P, P-1, P-1-A, P-1-B, and P-2 that the Bureau of Lands has disposed of two commercial lots (Lots Nos. 3682 and 3687 'within the vicinity of the Public Market of San Francisco, Agusan del Sur, just across the street from, the Public Market on the Western side, along the same line where Lots Nos. 3678 and 3679 (in question) are located'), one to a Tito Contreras, and the other to a Rodolfo Cornejo, without benefit of public bidding and in accordance with Republic Act 730. What the actual number of commercial lots in the San Francisco public market area have been similarly disposed of and already titled is not shown. But the Court can safely assume that there are more for if two can do it, why not the other applicant-occupants, as petitioners are now situated? Petitioners have likewise shown with their Exhibits Q, Q-1, Q-1-A, Q-2 and Q-2-A that the said Bureau of Lands has similarly disposed of one commercial lot (Lot 803-A, Cad-11070-D, equivalent to Lot No. 820, Cad-84) situated in Poblacion, Butuan City to one Ernesto Reyes, in accordance with Republic Act 730 and without public bidding.

"The foregoing are mere samples of instances where the Bureau of Lands has sold to qualified applicant occupants lots classified as commercial in its survey without public bidding and pursuant to the provisions of Republic Act 730. It would not, therefore, be farfetched to presume that a good number of occupants of public lands suitable for commerce and classified as commercial, has succeeded in securing title to said lots under and pursuant to Republic Act 730 since June 18, 1952, when said law was enacted. What then will happen if the Court were to give nod to and uphold the respondents' suggestion that said titles be done away with and nullified for having allegedly been issued and secured in violation of law. x x

"Art. 10 of the Civil Code reads -

"ART. 10. In case of doubt in the interpretation or application of laws, it is presumed that the law making body intended right and justice to prevail."

It is the sense of the Court that by making Republic Act 730 applicable to commercial and industrial lots used at the same time as home lots as well as to lots classified as residential would be more in keeping with right and justice."

Together with the Appellate Court, we subscribe to the foregoing dissertation. If the LANDS OFFICIALS were a doctrinal Court, the equitable and practical principles of "stare decisis" and "rule of property" might be invocable in this case.

All told, we are ruling that when public land lots of not more than 1,000 sq. ms. are used, or to be used as a residence and for "commercial" or "industrial" purposes, expected to be small ventures, they can be sold on private sales under the provisions of Republic Act No. 730.

WHEREFORE, the petition filed herein is hereby ordered dismissed.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, and Gutierrez, Jr., JJ., concur.

[1] Shaw v. American Ins. Union, 33 SW 2d. 1055.

[2] AN ACT TO PERMIT THE SALE WITHOUT PUBLIC AUCTION OF PUBLIC LANDS OF THE REPUBLIC OF THE PHILIPPINES FOR RESIDENTIAL PURPOSES TO QUALIFIED APPLICANTS UNDER CERTAIN CONDITIONS.

Section 1. Notwithstanding the provisions of sections sixty-one and sixty-seven of Commonwealth Act Numbered One hundred forty-one, as amended by Republic Act Numbered Two hundred ninety-three, any Filipino citizen of legal age who is not the owner of a home lot in the municipality or city in which he resides and who has in good faith established his residence on a parcel of the public land of the Republic of the Philippines which is not needed for the public service, shall be given preference to purchase at a private sale of which reasonable notice shall be given to him not more than one thousand square meters at a price to be fixed by the Director of Lands with the approval of the Secretary of Agriculture and Natural Resources. It shall be an essential condition of this sale that the occupant has constructed his house on the land and actually resided therein. Ten per cent of the purchase price shall be paid upon the approval of the sale and the balance may be paid in full, or in ten equal annual installments. (Underscoring supplied).

x x x x x x x x

Sec. 3. The provisions of the Public Land Act with respect to the sale of lands for residential purposes which are not inconsistent herewith shall be applicable."

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